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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,825	09/18/2006	Eiko Seidel	L7725.06102	2113

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Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, N.W., Suite 1200
Washington, DC 20006

EXAMINER

ABRAHAM, ESAW T

ART UNIT	PAPER NUMBER
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2112

MAIL DATE	DELIVERY MODE
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03/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/567,825	SEIDEL ET AL.	
	Examiner	Art Unit	
	ESAW T. ABRAHAM	2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 71 is/are rejected.
- 7) ☒ Claim(s) 40-70 and 72-80 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- The reply filed on 01/21/09 has been received and entered.

Response to Amendment

- Applicant's amendment to claims 40, 41, 72, and 73 appropriately addresses the objection to claims 40, 41, 72, and 73, as detailed in the previous office action.

Accordingly, these objections are withdrawn in view of Applicant's amendment.

- Applicant's amendments do not appropriately address the objection of claims 54 and 56. The objection to claims 54 and 56 is maintained.

Response to Arguments

- Applicant's arguments, see Remark pages 13-19 filed on 01/21/09 under 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

Status of claims

1. Claims 40-80 are pending.

Claim Objections

2. Claims 40-45, 47, 48, 54 and 56 are objected to because of the following informalities:

In lines 11, 14 and 16-18, "a soft-buffer region" should recite "a soft buffer region".

Claim 41, line 2, "a soft-buffer region" should recite "a soft buffer region".

Claim 42, line 2, the claim recites, "...the soft buffer based" and it should recite, "...the soft buffer region based" to show proper antecedent.

Claim 43, line 3, "said soft-buffer region" should recite "said soft buffer region".

Claim 44, line 2, "the soft-buffer region" should recite "the soft buffer region".

Claim 45, line 2, "the soft-buffer region" should recite "the soft buffer region".

Claim 47, lines 4 and 6, "soft-buffer region" should recite "soft buffer region".

Claim 48, lines 4 and 6, "soft-buffer region" should recite "soft buffer region".

In claim 54, please define the full word of a written word or phrase for the abbreviations "NBAP" as specified in the specification.

In claim 56, please define the full word of a written word or phrase for the abbreviations "IE" as specified in the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112, 2nd

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 71 and 72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In lines 1-2, the claim recites, "A base station for operation in a mobile communication system comprising a communication terminal and a plurality of base stations". It is not clear how a single base station comprises plurality of base stations?
- Claim 71, recites "wherein said base station comprises **means** for implementing the method according to claim 40" is a means (or step) plus function limitation that

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invokes 35 U.S.C 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material or acts for the claimed limitation.

Applicant is required to:

a) Amend the claim so that the claim limitation will no longer be a means (or step) function limitation under 35 U.S. C. 112, sixth paragraph; or

b) Amend the written description of the specification such that it clearly links or associate the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)).

Allowable Subject Matter

4. Claims 40-70 and 72-80 are allowed. The following is an Examiner's statement of reasons for allowance:

Independent claim 40 of the present application teaches, for example, A method for avoiding soft buffer corruption in a Hybrid Automatic Retest (HARQ) protocol in a mobile communication system comprising a communication terminal and a plurality of base stations, wherein said communication terminal is in communication with said plurality of base stations during a soft handover, the method comprising receiving data from the communication terminal in a soft handover by at least one of the base stations employing one of the base stations employing one of plural HARQ processes of the HARQ protocol, wherein said communication terminal is in communication with said plurality of base stations during the soft handover, storing said received data in a soft buffer region of a HARQ soft buffer of said at least one of the base stations wherein the soft-buffer is associated to the HARQ process employed to receive the data, decoding by said at least one of the base stations the data stored in said soft-buffer region associated to

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the HARQ process employed to receive the data, and employing an elapsed time since storing said data in the soft buffer region associated to the HARQ process employed to receive the data to flush by said at least one base station the soft buffer region associated to the HARQ process employed to receive the data, whereby soft buffer corruption is avoided.

The foregoing limitations are not found in the prior arts of record. Particularly, the prior art of record taken singly or in combination fail to teach, anticipate, suggest, or render obvious the foregoing limitations “*receiving data from the communication terminal in a soft handover by at least one of the base stations employing one of the base stations employing one of plural HARQ processes of the HARQ protocol, wherein said communication terminal is in communication with said plurality of base stations during the soft handover, storing said received data in a soft buffer region of a HARQ soft buffer of said at least one of the base stations wherein the soft-buffer is associated to the HARQ process employed to receive the data, decoding by said at least one of the base stations the data stored in said soft-buffer region associated to the HARQ process employed to receive the data, and employing an elapsed time since storing said data in the soft buffer region associated to the HARQ process employed to receive the data to flush by said at least one base station the soft buffer region associated to the HARQ process employed to receive the data, whereby soft buffer corruption is avoided*”. Consequently, claim 40 is allowed over the prior arts.

Independent claim 72 includes similar limitations of independent claim 40 and therefore is allowed for similar reasons.

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Dependent claims 41-70 and 73-80 depend from allowable independent claims and inherently include limitations therein and therefore are allowed as well.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esaw T. Abraham whose telephone number is (571) 272-3812. The examiner can normally be reached on M-F 8am-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/EA/
03/16/09

/Esaw T Abraham/
Primary Examiner, Art Unit 2112

